IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATIONS NO.30 OF 2003,
31 OF 2003 & 32 OF 2003.

CRIMINAL MISC. APPLICATION NO.30 OF 2003

Mr. Jack Fernandes,
son of Albertino Fernandes,
age 32 years, Resident of
House No.129/11, Silva Nagar,
Ponda, Goa. .... Applicant/
Accused.

V/s.

State,
through the Ponda Police Station .... Respondent.

CRIMINAL MISC. APPLICATION NO.31 OF 2003

Mr. Daniel Fernandes,
aged 27 years,
son of Avertano Fernandes,
Resident of House No.129/11,
Silva Nagar, Ponda, Goa. ... Applicant/
Accused.

V/s.

State,
through the Ponda Police Station. ... Respondent.

CRIMINAL MISC. APPLICATION NO.32 OF 2003

Mr. Sucurro Quadros,
major, married, son of Constancio
Quadros, Resident of
Carai Bag, Shiroda, Ponda, Goa. .... Applicant/
Accused.

V/s.

State,
through the Ponda Police Station. .... Respondent.

Mr. S.D. Lotlikar, Sr. Advocate with Mr. A.D. Bhobe,
Advocate for the applicants/accused.

Mr. S.N. Sardessai, Public Prosecutor for the State/ Respondent.

CORAM : P.V. HARDAS, J.

DATE : FEBRUARY 17, 2003.

ORAL ORDER :

These three applications are being decided by a common order, as the applicants are the accused in Crime No.271/2002 under Sections 143, 147, 302, read with 149 of the Indian Penal Code. The investigation is complete and the charge-sheet in this behalf has been filed in the Court of the Judicial Magistrate, First Class, Ponda.

2. The allegations, as are set out in the charge-sheet against the present applicants, are that on 27/11/2002 between 2.15 p.m. to 2.30 p.m. at Whali Manos, the present applicants/accused along with other accused who have been released on bail, formed an unlawful assembly and with the common object of causing death of one Inacio Frenandes, chased the deceased and after the deceased had jumped in the Zuari river, the present three applicants swam and drowned the deceased. The post mortem report indicates that the deceased died due to drowning.

3. The present applicants had filed bail

applications No.23/2003, 24/2003 and 25/2003 in the Court of the Addl. Sessions Judge, but the learned Addl. Sessions Judge by order dated 11.2.2002 rejected the three applications.

4. With the assistance of the learned Prosecutor Shri S.N. Sardessai, I have perused the charge-sheet. Admittedly, there are two sets of witnesses, one set of witnesses whose statements are recorded at the earliest point of time, are not the eye witnesses, but speak about the acts of the present applicants on the basis of the statements made by the first informant and Bibi Fernandes, who had given the missing report. The missing report is lodged by one Bibi Fernandes who, admittedly, according to the report is not an eye witness. The second set of witnesses comprises of eye witnesses whose statements, admittedly, have been recorded after nearly a month of the incident. Apart from this, the charge-sheet has been filed and no useful purpose would be served by keeping the present applicants behind the bar. The apprehension of the prosecution that the applicants, if enlarged on bail, would either abscond or tamper with the prosecution witnesses, can be allayed by putting the applicants to certain conditions.

5. Prima facie, therefore, I am satisfied

that the present applicants are entitled to be released on bail on the following terms and conditions :

(i) The applicants shall furnish Personal Bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the learned Addl. Sessions, Judge, Panaji;

(ii) The applicants shall furnish their permanent residential addresses and in case of change in address, shall intimate the police accordingly;

(iii) The applicants shall make themselves available as and when called by the Investigating Officer;

(iv) The applicants shall not leave the State of Goa without prior permission of the learned Sessions Judge assigned with deciding of the case;

(v) The applicants shall not enter the Village Carai Shiroda till the decision of the sessions trial;

6. On the aforesaid terms and conditions, the Criminal Misc. Applications are allowed.

P.V. HARDAS, J.

ssm.